

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Salia Issa,
Fiston Rukengeza, and
Salia Issa and Fiston Rukengeza as
next friends of their unborn child,

Plaintiffs,

v.

Texas Department of Criminal Justice,
Lt. Brandy Hooper, individually,
Lt. Desmond Thompson, individually, and
Assist. Warden Alonzo Hammond, individually,

Defendants.

CIVIL ACTION NO: 1:22-cv-1107-LY

**PLAINTIFFS' EX PARTE MOTION TO STRIKE A SCRIVENER'S ERROR IN THE
CASE CAPTION OR, ALTERNATIVELY, MOTION TO AMEND THE COMPLAINT**

1. Plaintiffs filed the complaint in this case on October 31, 2022. (Document #1).
2. Plaintiffs have not yet served any Defendants, nor have Plaintiffs received a waiver of service from any Defendants. However, Plaintiffs did email a copy of the complaint and a request to waive service to the General Counsel's Office of the Texas Department of Criminal Justice; Plaintiffs have not received any response.
3. After filing the complaint, Plaintiffs' counsel recognized a scrivener's error in the complaint's caption. Specifically, the caption of the complaint includes a third "s" in Plaintiff-Issa's last name—i.e., the last name is spelled "Isssa" instead of "Issa." The mistake was inadvertent and the caption is the only place in the complaint containing the mistake.

4. Recognizing the importance of the case caption pursuant to Federal Rule of Civil Procedure (FRCP) 10(a), Plaintiffs hereby move to strike the third “s” in the case caption of the complaint. Granting said motion will allow Plaintiffs to request issuance of the summons under the correct case caption, and it will also bring the caption of the complaint in line with the Plaintiff-Issa’s name as listed on the Court’s docket.
5. Alternatively, if the Court is not inclined to grant Plaintiffs’ motion to strike, Plaintiffs hereby move to amend the complaint pursuant to FRCP 15(a)(2). Plaintiffs believe that justice requires the amendment consistent with FRCP 15(a)(2), as it was an inadvertent, minor mistake that Plaintiff’s counsel quickly caught. Defendants have not yet been served (let alone responded), and as such the amendment would not prejudice them in any manner.
6. Plaintiffs further move to retain their right to amend once as a matter of course consistent with FRCP 15(a)(1). *See generally Ramirez v. County of San Bernardino*, 806 F.3d 1002, 1007 (9th Cir. 2015) (holding that amendments under FRCP 15(a)(1) and (a)(2) are distinct and therefore need not be pursued in any particular order).

WHEREFORE, Plaintiffs hereby move to strike the third “s” in Plaintiff-Issa’s last name as spelled in the caption of the complaint. Alternatively, Plaintiffs move to file an amended complaint pursuant to FRCP 15(a)(2). A proposed order and the amended complaint are filed contemporaneously with this motion.

Respectfully submitted,

/s/ Ross A. Brennan

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